

The Law Regarding Metal Detecting Outside the United Kingdom (including Jersey)

Amended Feb 2005

This report has been written to provide available information on the law in other countries. Every effort has been made to verify its correctness but anyone wishing to metal detect overseas should satisfy themselves of the legal situation at the time they intend traveling.

CONTENTS

Austria, Belgium, Cyprus, Denmark, France, Germany, Greece, Northern Ireland, Southern Ireland, Israel, Italy, Jersey, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey

AUSTRIA

The use of metal detectors in archaeological contexts on land or underwater requires an excavation permission issued by the Austrian Federal Monument Authority (Bundesdenkmalamt) because such use is considered to constitute an 'excavation for the purpose of discovery and exploration of movable and immovable monuments' in the sense of Section II of the Austrian law for the protection of monuments. Such permissions are in general not issued to private individuals.

BELGIUM

Information still awaited.

CYPRUS

Under Section 2(1) (a) of the antiquities law of 1935 (amended 1973) any object whether movable or part of immovable property is protected by law.

Section 14 (1) states that 'no person shall excavate or cause excavations to be made whether on his own land or elsewhere for the purpose of discovering antiquities without a license'.

Although not specifically mentioning metal detectors, section 14(1) implicitly rules them out, nor can a landowner legally give permission for a search to be carried out if it results in excavation.

DENMARK

Restrictions

There are a number of historical and archaeological sites where it is totally forbidden to use a metal detector.

On public land it is the local community that decides whether metal detectors may be used. It is estimated that approximately 50% of the public land is closed to metal detecting.

On public woodland the forest supervisor decides whether or not a metal detector may be used. In most cases permission is not granted.

There is hardly any problem on public beaches as to forbid metal detecting would discriminate against a class of people and, therefore, a child would not be able to use a bucket and spade etc.

Apart from seeking permission of the landowner, no restrictions on private land.

FINDS AND REWARDS - THE RIGHTS OF THE FINDER

Any coins minted after the coin reform in the 19th Century can be retained by the finder otherwise all coins and artefacts must be delivered to the National Museum.

The finder is awarded a cash sum for the find although, as this is determined by the National Museum, it is always below the market value. It is very rare that the finder is allowed to keep his find.

FUTURE TRENDS

Archaeologists recognise the benefits to be derived from seeking cooperation not confrontation and this is improving the relationship.

The method of calculating rewards is being challenged by the media and will probably result in change in the future.

FINLAND

All moveable objects, such as coins, weapons etc over one hundred years old should be reported with an indication of context (Antiquities Act 1963, Section 16).

This legislation does not rule out the use of metal detectors.

FRANCE

The use of metal detectors was controlled by the use of the war time Patrimony Act 1941 but, on the 18 December 1989 Law Number 89-900 (NOR: MCCX8900 163L) was adopted. However see appendix (L542) adopted in 2004.

Article 1: No one may use metal detecting equipment for the purpose of searching for monuments and objects which could interest (concern?) prehistory, history, art or archaeology without first having obtained administrative authorisation issued according to the qualification of the applicant and also the nature and method of searching.

Article 2: All publicity and instructions on the use of metal detectors must carry the warning of the prohibition stated in Article 1, the penalties involved and also the reason for this legislation.

Article 3: Every infringement of the present law will be noted by officers, police agents and other law enforcement officers, as well as by officials, agents and guardians of Article 3 of the law number 80-532 of 15 July 1980 relative to the protection of public collections against acts of vandalism.

Article 4: The reports drawn up by the various persons designated by Article 3 above will, until proved to the contrary, be given or sent, without delay, to the public prosecutor of the Republic in the jurisdiction where the offence was committed.

Under French law the enactment of legislation is followed by the Decree which determines how the law will be applied. In this case the Decree states:

Article 1 The authorisation to use metal detectors, provided for by Article 1 of the 18 December 1989 Law is granted, on the demand of the interested party, by the license of the Prefect of the region in which the land to be searched is situated.

The request for authorisation must establish the identity, competence and experience of the applicant as well as the location, scientific objective and the duration of the searches to be undertaken.

When the searches are to be carried out on land which does not belong to the applicant, the written application must be accompanied by a document of consent written by the owner of the land and, if appropriate, anyone else who has the right.

Article 2 Anyone who uses a metal detector to carry out searches of the sort described in Article 1 of the Law without having first obtained the authorisation required or who does not observe the requirements described in Article 1 of this Decree will be punished by the fine applicable for contraventions of the fifth class.
The equipment used in the infringement will be confiscated.

Article 3 Whoever publicises or draws up publicity for, or draw up information about the use of metal detectors and fails to draw attention to the requirements of Article 2 of the Law will be punished according to the penalties applicable for offences of the fifth class.

Beaches are believed to be outside this Law.

Appendix (L542)

Art L542: No one can use equipment allowing metal target detection, to search monuments for objects of interest to pre-history, history, art or archaeology, without having first obtained an administrative authorisation, which may be given depending on the qualification of the applicant, as well as the nature of and reason for the research. Those who contravene are liable to fines within the band class 5. The purpose of this regulation is the protection of archaeological sites. The authorisation of archaeological research using metal detectors requires the permission of the prefect of the area concerned.

GERMANY

The 1992 law on the search for, and preservation of antiquities, covers all objects belonging to the ancient period, early Christianity and the Middle Ages.

Excavation requires a licence and work may not be carried out, without permission, near an antiquity in such a way as to affect it directly or indirectly. All accidental discoveries must be reported. Rewards are made equal to 50% of value if found on public land and 100% if on private land.

Although the 1932 Act does not refer to metal detectors, any items found by its use are covered by the Act.

NORTHERN IRELAND

The law in Northern Ireland is not the same as mainland England and the use of metal detectors is covered by the Historic Monuments Act (NI) 1971 which states:

Part IV Section 11: A person shall not, save under and in accordance with a licencedig or excavate in or under any land for the purpose of searching generally for archaeological objects

Part IV Section 12: The finder of any archaeological object shall, within fourteen days of such finding, report the circumstances to the Director of the Ulster Museum or to the officer in charge of a police station.

SOUTHERN IRELAND

The National Monuments (Amendment) Act 1987 (Section 2) states:

Subject to the provisions of this section a person shall not:

1a: Use or be in possession of a detection device in, or at the site of, a monument of which the Commissioners or a local authority are the owners or guardians or in respect of which a preservation order is in force or which stands registered in the Register or

2a. in an archaeological area that stands registered in the Register or

3a. in a Registered area

OR

b: Use, at a place other than a place specified in paragraph a of this subsection, a detection device for the purpose of searching for archaeological objects or

c: Promote, whether by advertising or otherwise, the sale or use of detection devices for the purpose of searching for archaeological objects.

Note: 'Archaeological area' is defined as 'an area which the Commissioners consider to be of archaeological importance but does not include the area of a historical monument standing entered in the Register'.

Section 40 states that 'Where in a prosecution for an offence under this section it is proved that a detection device was used, it shall be presumed until the contrary is proved that the device was being used for the purpose of searching for archaeological objects'.

ISRAEL

The Antiquities Act 1978, Section 9a states that 'no person shall excavate in a private property for the purpose of discovering antiquities, nor search for antiquities in any other manner, including the use of metal detectors, nor gather antiquities unless he has received a licence for such from the Director. Breach of this section carries a liability to imprisonment for a term of 3 years or a fine of =A3150,000'.

Section 38 of the same Act states that 'any person found on an antiquity site, in whose possession or in whose immediate vicinity are found excavation tools and it can be assumed that they were recently used in excavation work at the site, or in whose

possession or in whose immediate vicinity is found a metal detector, is presumed to have intended to discover antiquities unless he proves that he has no such intention.

ITALY

The 1939 Act of the custody of artistic and historic objects affords protection to all objects and coins of historical or archaeological value including coins. All objects are State property and must be reported to the Superintendency of Arts. Rewards may be offered up to 1/4 of the value.

Metal detecting is forbidden in the following areas:

Val D'AOSTA
TOSCANA
LAZIO
CALABRIA
SICILIA

Coins found minted after 1500 can be kept by the finder and 10% of their value has to be paid to the landowner.

JERSEY

(Statement Of Detecting Regulations In Jersey)

Metal detecting in Jersey is primarily a beach/foreshore activity around the island. Unless, you have permission by a land owner to search their fields, so long as there is no archaeological monument within the land, or other sites as stated below having an SSI status... the areas to avoid are: St. Ouen inland dunes at the 5 mile road, also Jersey/National Trust land, and historic sites/buildings as expected.

We have no treasure trove law in Jersey, however there are four things to consider that are in law, operating as statute for control within, our hobby on the Island ...

- (1). Parks and Common Land areas are subject to policing, these are no-go-areas.
- (2). SSI - Sights of Special Interest, cover all historic sites and buildings in Jersey, these are no-go-areas, "with one exception as below" (a).
 - (a). However, one Extended Beach Area, starting from La Collette in St. Helier, East Coast going around Northward through to Greve D'Azette, Green Island, Le Hocq, La Rocque, and into the bay of Grouville up to Gorey Harbour, allows you to beach detect and recover finds in these areas, but keep in mind the sites marine environment, this is why it has an SSI placed on it.
- (3). Metals of Gold/Silver, rings or the like with person/persons loss incurred, requires the finder to take the item into our police station, at Rouge Bouillon in St Helier ; where details would be taken and if the item is not claimed, it becomes either crown property, or returned to the finder in time.
- (4). Lastly, Jersey has a Custom & Excise Law, policing objects of historic interest, and are restricted from going out of the island, without a license...
So if you recover a find or finds that have a date of 50 years or more, you need a Custom Licence No. 108, to be granted export for the find after the find/object has been assessed

by our Jersey Heritage Trust, at La Houge Bie Museum to determine its context for recording, and for the islands history the museum might, buy the find.

Its likely, you will recover mainly recent and Victorian, plus badly worn 1600 French coinage, also the usual dross left behind towards the top of the beach, however rings can be a good source particularly very thin ones, if you have a detector good at recovering thin gold and silver, you could do well; so good luck, and if your a visitor to the island, enjoy your stay.

Jersey Metal Detecting Society: 2004/5.

LIECHTENSTEIN

The 1977 Monument Protection Act requires the declaration of any antiquities found in the soil. A government permit is necessary for archaeological excavations.

LUXEMBOURG

The 1966 Act on excavations and movable cultural objects states that 'all search and excavations with the aim of discovery or bringing to light objects or sites of historical interest can only be made with the authorisation of the Minister for Arts and Sciences'.

The use of metal detecting for unauthorised searching is widespread and, in the view of the Ministry of Justice, is in contravention of the law.

MALTA

The 1925 - 1974 Antiquities Protection Act affords protection to all objects, both movable and immovable, which are more than 50 years old. Excavation can only be carried out with government authorisation (Article 1). The reporting of accidental finds is compulsory (Article 10).

Since 1979 there has been a ban on the import of any metal detectors of sufficient sensitivity to be of any danger to archaeological sites.

NETHERLANDS

Information to follow.

NORWAY

Section 4 of the Cultural Heritage Act 1978 lists a wide range of specified objects, both fixed and movable, dating from before 1937 which are protected.

Section 3 also provides protection from unauthorised excavation. The ownership of all objects older than 1537 and of coins older than 1650 is vested in the State (Section 12, a and b). Section 13 requires that all finds should be reported to the authorities who will fix a suitable reward. There is no specific reference to metal detectors.

PORTUGAL

There has been some new legislation introduced recently which prohibits searching for archaeological material without a permit. To obtain a permit, please apply to the Ministry of Culture in Portugal.

SPAIN

The Spanish Tourist Office in London advises in their General Information sheet:

Metal Detectors: The use of metal detectors is not allowed unless an import license for the detector has previously been issued. Further enquiries should be made to the Spanish Commercial Office.

The Commercial Office at the Spanish Embassy, if asked, provide the following written information:

1. The use of metal detectors could involve considerations of the Law and Regulations governing artistic or archaeological finds, involving national heritage and treasure trove, as provided by the very detailed Law of 25th June 1985 (Historical Heritage); and the Royal Decree of 10th January 1986 which develops it.
2. If anything is found, therefore, it would be necessary to comply with the complex procedures outlined in these enactments; and it would certainly not be possible for any finds to be taken out of Spain until the proper Authorities had given their consent. That could take months; and if the article in question is classified as part of the national artistic heritage, and/or is over 100 years old, it is not likely to receive an export permit either at all, or for a very long time, owing to the complexity of the procedures.

The second aspect is a technical one. The Royal Decree of 25th November 1987, which deals with nuclear energy and radio-activity, lays down rules and safeguards against radiation. The Order of 20th March 1975 sets out the homologation rules for radio-active apparatus. The metal detector in question may not comply with those rules.

There is a third aspect. The local Naval Authorities have been known to complain because the use of metal detectors has interfered with electronic communications.

All in all, therefore, it is preferable not to use metal detectors in Spain.

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SWEDEN

Section 19 of the 1988 Act which prohibited metal detecting in the countries of Gotland and Oland has now been extended to include all of Sweden.

SWITZERLAND

No legislation specifically refers to metal detecting by private individuals, though legislation exists to ban unauthorised search or excavation of antiquities.

TURKEY

The 1973 Antiquities Act carries very extensive lists of movable and immovable objects protected including places of ancient settlement or places where there are vestiges of ancient civilisations (Article 1). All objects are the property of the State (Article 3) and reporting is obligatory (Article 4) but a reward system exists (Article 47).

There is a specific provision against treasure hunting, illicit excavation and dealing in antiquities (Article 51 - 52). Unauthorised treasure hunting carries a penalty of 2 - 5 years imprisonment and fines of =A35,000 to =A310,000 (Article 47).